

MEL:JRS
F.#2019R00382

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: WARRANT TO SPRINT
CORPORATION

TO BE FILED UNDER SEAL

**Application for Non-Disclosure Order
Pursuant to 18 U.S.C. § 2705(b)**

No. 19-MC-1163

**APPLICATION FOR ORDER COMMANDING SPRINT CORPORATION NOT TO
NOTIFY ANY PERSON OF THE EXISTENCE OF A WARRANT**

The United States requests that the Court order Sprint Corporation not to notify any person (including the subscribers and customers of the accounts listed in the warrant) of the existence of the warrant attached to the proposed Order submitted herewith for the period of one year from the date of the Order.

Sprint Corporation is a provider of an electronic communication service, as defined in 18 U.S.C. § 2510(15), and/or a remote computing service, as defined in 18 U.S.C. § 2711(2). Pursuant to 18 U.S.C. § 2703, the United States obtained the attached warrant, which requires Sprint Corporation to disclose certain records and information to the United States. This Court has authority under 18 U.S.C. § 2705(b) to issue “an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order.” *Id.*

In this case, such an order would be appropriate because the attached warrant relates to an ongoing criminal investigation that is neither public nor known to the targets of

the investigation, and there is reason to believe that its disclosure will alert the targets to the ongoing investigation. Specifically, the accounts listed in the warrant are believed to belong to an individual who is a target of the investigation, who is at large and who does not yet know of the investigation. Accordingly, there is reason to believe that notification of the existence of the attached warrant will seriously jeopardize the investigation or unduly delay a trial, including by giving the target an opportunity to flee or continue flight from prosecution. *See* 18 U.S.C. § 2705(b). Some of the evidence in this investigation involves communications that can be transferred to alternate platforms (including encrypted platforms and platforms beyond the jurisdictional reach of U.S. legal process). If alerted to the existence of the warrant, there is reason to believe that the subject under investigation will change his patterns of behavior.

WHEREFORE, the United States respectfully requests that the Court grant the proposed Order directing Sprint Corporation not to disclose the existence or content of the warrant attached to the proposed Order for the period of one year from the date of the Order, except that Sprint Corporation may disclose the warrant to an attorney for Sprint Corporation for the purpose of receiving legal advice.

The United States further requests that the Court order that this application and any resulting order be sealed until further order of the Court. As explained above, these documents discuss an ongoing criminal investigation that is neither public nor known to all

of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Dated: Brooklyn, New York
May 1, 2019

RICHARD P. DONOGHUE
United States Attorney
Eastern District of New York

By: /s/ Jonathan Siegel
Jonathan Siegel
Assistant U.S. Attorney
(718) 254-6293

F.#2019R00382

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: WARRANT TO SPRINT
CORPORATION

TO BE FILED UNDER SEAL

No. 19-MC-1163

ORDER

The United States has submitted an application pursuant to 18 U.S.C. § 2705(b), requesting that the Court issue an Order commanding Sprint Corporation, an electronic communication service provider and/or a remote computing service, not to notify any person (including the subscribers and customers of the accounts listed in the warrant) of the existence of the attached warrant for the period of one year from the date of this Order.

The Court determines that there is reason to believe that notification of the existence of the attached warrant will seriously jeopardize the investigation or unduly delay a trial, including by giving the target an opportunity to flee or continue flight from prosecution. *See* 18 U.S.C. § 2705(b).

IT IS THEREFORE ORDERED under 18 U.S.C. § 2705(b) that Sprint Corporation shall not disclose the existence of the attached warrant, or this Order of the Court, to the listed subscriber or to any other person for the period of one year from the date of this Order, except that may disclose the attached warrant to an attorney for Sprint Corporation for the purpose of receiving legal advice.

IT IS FURTHER ORDERED that the application and this Order are sealed
until otherwise ordered by the Court.

Dated: Brooklyn, New York

May 1, 2019

/s/Steven M. Gold

STEVEN M. GOLD
UNITED STATES MAGISTRATE JUDGE
Eastern District of New York

TO: Clerk's Office
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK



APPLICATION FOR LEAVE
TO FILE DOCUMENT UNDER SEAL

IN RE SEARCH OF THE CELLULAR
TELEPHONES ASSIGNED (1) CALL
NUMBER 201-283-7734, WITH IMSI
NUMBER 354255097677993, AND (2) CALL
NUMBER 347-512-5605

19-MC-1163
Docket Number

SUBMITTED BY: Plaintiff ___ Defendant ___ DOJ ☒
Name: Jonathan Siegel
Firm Name: U.S. Attorney's Office - EDNY
Address: 271 Cadman Plaza East
Brooklyn, New York 11201
Phone Number: 718-254-6293
E-Mail Address: Jonathan.Siegel@usdoj.gov

INDICATE UPON THE PUBLIC DOCKET SHEET: YES ___ NO ☒
If yes, state description of document to be entered on docket sheet:

MANDATORY CERTIFICATION OF SERVICE:

A.) ___ A copy of this application either has been or will be promptly served upon all parties to this action, B.) ___ Service is excused by 31 U.S.C. 3730(b), or by the following other statute or regulation: ___; or C.) ☒ This is a criminal document submitted, and flight public safety, or security are significant concerns. (Check one)

May 1, 2019
DATE

SIGNATURE

A) If pursuant to a prior Court Order:

Docket Number of Case in Which Entered: _____
Judge/Magistrate Judge: _____
Date Entered: _____

B) If a new application, the statute, regulation, or other legal basis that authorizes filing under seal

Ongoing investigation

**ORDERED SEALED AND PLACED IN THE CLERK'S OFFICE,
AND MAY NOT BE UNSEALED UNLESS ORDERED BY
THE COURT.**

DATED: Brooklyn, NEW YORK
May 1, 2019

U.S. DISTRICT JUDGE/U.S. MAGISTRATE JUDGE

RECEIVED IN CLERK'S OFFICE May 1, 2019
DATE

MEL:JRS
F.#2019R00382

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN THE MATTER OF THE SEARCH OF
THE CELLULAR TELEPHONES
ASSIGNED (1) CALL NUMBER 201-283-
7734, WITH INTERNATIONAL MOBILE
SUBSCRIBER IDENTITY NUMBER
354255097677993, AND (2) CALL
NUMBER 347-512-5605

Filed Under Seal

**APPLICATION FOR A SEARCH
WARRANT FOR PROSPECTIVE AND
HISTORICAL CELL-SITE
INFORMATION**

Case No. 19-MC-1163

**AFFIDAVIT IN SUPPORT OF AN
APPLICATION FOR A SEARCH WARRANT FOR
PROSPECTIVE AND HISTORICAL CELL-SITE INFORMATION**

I, Christian F. Sabatino, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant under Federal Rule of Criminal Procedure 41 and 18 U.S.C. § 2703(c)(1)(A) for information, including prospective and historical location, about the cellular telephones assigned (1) call number 201-283-7734, with International Mobile Subscriber Identity Number 354255097677993 (“Target Cell Phone 1”); and (2) call number 347-512-5605 (“Target Cell Phone 2”) (collectively, the “Target Cell Phones”), both of whose service provider is Sprint Corporation (“Sprint”), a wireless telephone service provider headquartered at 6200 Sprint Parkway, Overland Park, Kansas, and both of which are believed to be used by VALENTE PALACIOS TELLEZ, also known as “Valentine Palacios.” The Target Cell Phones are described herein and in Attachment A, and the location information to be seized is described herein and in Attachment B.

2. I am a Deportation Officer with the United States Department of Homeland Security, Immigrations and Customs Enforcement (“ICE”) and have been since 2006. I am a

“federal law enforcement officer” within the meaning of the Federal Rule of Criminal Procedure 41(a)(2)(C), that is, a government agent engaged in enforcing the criminal laws and duly authorized by the Attorney General to request a search warrant. In that capacity, I have had extensive experience and training in using cellphone location information to track fugitive aliens.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on the facts set forth in this affidavit, there is probable cause to believe that PALACIOS TELLEZ has illegally reentered the United States after having been removed subsequent to a conviction for a felony, in violation of 8 U.S.C. §§ 1326(a) and (b)(1). On March 19, 2019, a grand jury returned an indictment charging PALACIOS TELLEZ with this crime. That same day, an arrest warrant was issued by the Honorable Cheryl L. Pollak, United States Magistrate Judge. There is probable cause to believe that the information described in Attachment B will assist law enforcement in arresting PALACIOS TELLEZ, who is a “person to be arrested” within the meaning of Federal Rule of Criminal Procedure 41(c)(4).

PROBABLE CAUSE

5. I am a Deportation Officer with ICE and have been involved in the investigation of numerous cases involving the illegal reentry of aliens. I am familiar with the facts and circumstances set forth below from my participation in the investigation, my review of the ICE investigative file (including the defendant’s criminal history record) and from reports of other law enforcement officers involved in the investigation.

6. VALENTE PALACIOS TELLEZ, also known as “Valentine Palacios,” is a citizen and national of Mexico. On or about April 9, 2013, PALACIOS TELLEZ was convicted of Assault in the Second Degree, in violation of New York Penal Law § 120.05(1), a felony. On or about April 22, 2013, PALACIOS TELLEZ was sentenced to two years’ imprisonment. On or about August 15, 2014, PALACIOS TELLEZ was removed from the United States to Mexico. On or about February 3, 2019, PALACIOS TELLEZ was arrested in Brooklyn, New York, for Assault in the Third Degree, in violation of New York Penal Law § 120.00.

7. On March 19, 2019, PALACIOS TELLEZ was charged in a sealed indictment in the Eastern District of New York with illegal reentry after having been removed subsequent to a conviction for a felony, in violation of 8 U.S.C. §§ 1326(a) and (b)(1). That same day, the Honorable Cheryl L. Pollak issued a warrant for PALACIOS TELLEZ’s arrest.

8. According to the arrest report filed in connection with PALACIOS TELLEZ’s February 3, 2019 arrest, PALCICIOS TELLEZ resides at 700 Avenue C, Brooklyn, New York. The report filed in connection with PALACIOS TELLEZ’s February 3, 2019 arrest further states that PALACIOS TELLEZ was in possession of Target Cell Phone 1 at the time of his arrest.

9. On or about April 2, 2019, law enforcement agents attempted to locate PALACIOS TELLEZ at 700 Avenue C, Brooklyn, New York, but he was not there. Residents of 700 Avenue C denied knowing PALACIOS TELLEZ, and law enforcement agents found no evidence that PALACIOS TELLEZ resided at that address.

10. On or about April 10, 2019 and April 17, 2019, law enforcement agents again surveilled 700 Avenue C but did not locate PALACIOS TELLEZ.

11. On or about April 24, 2019, law enforcement agents spoke to a resident of 700 Avenue C who stated that PALACIOS TELLEZ had lived at that location but had moved out approximately one month earlier.

12. That same day, law enforcement agents spoke to PALACIOS TELLEZ's sister, who provided the number for Target Cell Phone 2 as PALACIOS TELLEZ's phone number. The contact name in the sister's telephone for Target Cell Phone 2 was "Val" (i.e., Valente Palacios Tellez).

13. I am not aware of any other addresses or contact information for PALACIOS TELLEZ. As explained below, based on my training and experience, I believe that the data sought herein may allow law enforcement agents to locate PALACIOS TELLEZ in order to effectuate his arrest.

14. In my training and experience, I have learned that Sprint is a company that provides cellular telephone access to the general public. I also know that providers of cellular telephone service have technical capabilities that allow them to collect and generate at least two kinds of information about the locations of the cellular telephones to which they provide service: (1) E-911 Phase II data, also known as GPS data or latitude-longitude data, and (2) cell-site data, also known as "tower/face information" or cell tower/sector records. E-911 Phase II data provides relatively precise location information about the cellular telephone itself, either via GPS tracking technology built into the phone or by triangulating on the device's signal using data from several of the provider's cell towers. Cell-site data identifies the "cell towers" (i.e., antenna towers covering specific geographic areas) that received a radio signal from the cellular telephone and, in some cases, the "sector" (i.e., faces of the towers) to which the telephone connected. These towers are often a half-mile or more apart, even in urban areas, and can be 10

or more miles apart in rural areas. Furthermore, the tower closest to a wireless device does not necessarily serve every call made to or from that device. Accordingly, cell-site data is typically less precise than E-911 Phase II data.

15. Based on my training and experience, I know that Sprint can collect E-911 Phase II data about the locations of the Target Cell Phones, including by initiating a signal to determine the locations of the Target Cell Phones on Sprint's network or with such other reference points as may be reasonably available.

16. Based on my training and experience, I know that Sprint can collect cell-site data about the Target Cell Phones. I also know that wireless providers such as Sprint typically collect and retain cell-site data pertaining to cellular phones to which they provide service in their normal course of business in order to use this information for various business-related purposes.

17. Based on my training and experience, I know that wireless providers such as Sprint typically collect and retain information about their subscribers in their normal course of business. This information can include basic personal information about the subscriber, such as name and address, and the method(s) of payment (such as credit card account number) provided by the subscriber to pay for wireless telephone service. I also know that wireless providers such as Sprint typically collect and retain information about their subscribers' use of the wireless service, such as records about calls or other communications sent or received by a particular phone and other transactional records, in their normal course of business. In my training and experience, this information may constitute evidence of the crimes under investigation because the information can be used to identify the Target Cell Phones' user or users.

AUTHORIZATION REQUEST

18. Based on the foregoing, I request that the Court issue the proposed search warrant, pursuant to Federal Rule of Criminal Procedure 41 and 18 U.S.C. § 2703(c).

19. I further request, pursuant to 18 U.S.C. § 3103a(b) and Federal Rule of Criminal Procedure 41(f)(3), that the Court authorize the officer executing the warrant to delay notice until 30 days after the collection authorized by the warrant has been completed. There is reasonable cause to believe that providing immediate notification of the warrant may have an adverse result, as defined in 18 U.S.C. § 2705. Providing immediate notice to the subscriber or user of the Target Cell Phones would seriously jeopardize the ongoing investigation, as such a disclosure would give that person an opportunity to destroy evidence, change patterns of behavior and flee from prosecution. *See* 18 U.S.C. § 3103a(b)(1). As further specified in Attachment B, which is incorporated into the warrant, the proposed search warrant does not authorize the seizure of any tangible property. *See* 18 U.S.C. § 3103a(b)(2). Moreover, to the extent that the warrant authorizes the seizure of any wire or electronic communication (as defined in 18 U.S.C. § 2510) or any stored wire or electronic information, there is reasonable necessity for the seizure for the reasons set forth above. *See* 18 U.S.C. § 3103a(b)(2).

20. I further request that the Court direct Sprint to disclose to the government any information described in Attachment B that is within the possession, custody or control of Sprint. I also request that the Court direct Sprint to furnish the government all information, facilities and technical assistance necessary to accomplish the collection of the information described in Attachment B unobtrusively and with a minimum of interference with Sprint's services, including by initiating a signal to determine the locations of the Target Cell Phones on Sprint's network or with such other reference points as may be reasonably available, and at such intervals

and times directed by the government. The government shall reasonably compensate Sprint for reasonable expenses incurred in furnishing such facilities or assistance.

21. I further request that the Court authorize execution of the warrant at any time of day or night, because the warrant will be served on Sprint, who will then compile the requested records at a time convenient to it, and owing to the potential need to locate the Target Cell Phones outside of daytime hours.

22. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Respectfully submitted,



Christian F. Sabatino
Deportation Officer
United States Department of Homeland Security
Immigration and Customs Enforcement

Subscribed and sworn to before me on May 1, 2019

/s/Steven M. Gold

THE HONORABLE STEVEN M. GOLD
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

ATTACHMENT A

Property to Be Searched

1. The cellular telephones assigned (1) call number 201-283-7734, with International Mobile Subscriber Identity Number 354255097677993, and (2) call number 347-512-5605 (collectively, the “Target Cell Phones”), both of whose wireless service provider is Sprint Corporation (“Sprint”), a company headquartered at 6200 Sprint Parkway, Overland Park, Kansas.
2. Records and information associated with the Target Cell Phones that is within the possession, custody, or control of Sprint including information about the locations of the cellular telephones if it is subsequently assigned a different call number.

ATTACHMENT B

Particular Things to be Seized

I. Information to be Disclosed by the Sprint

All information about the locations of the Target Cell Phones described in Attachment A for a period of thirty days, during all times of day and night. “Information about the locations of the Target Cell Phones” includes all available E-911 Phase II data, GPS data, latitude-longitude data, and other precise location information, as well as all data about which “cell towers” (i.e., antenna towers covering specific geographic areas) and “sectors” (i.e., faces of the towers) received a radio signal from the cellular telephone described in Attachment A.

To the extent that the information described in the previous paragraph (hereinafter, “Location Information”) is within the possession, custody, or control of Sprint, Sprint is required to disclose the Location Information to the government. In addition, Sprint must furnish the government all information, facilities, and technical assistance necessary to accomplish the collection of the Location Information unobtrusively and with a minimum of interference with Sprint’s services, including by initiating a signal to determine the locations of the Target Cell Phones on Sprint’s network or with such other reference points as may be reasonably available, and at such intervals and times directed by the government. The government shall compensate Sprint for reasonable expenses incurred in furnishing such facilities or assistance.

To the extent that the information described in Attachment A is within the possession, custody, or control of Sprint, including any information that has been deleted but is still available to Sprint or that has been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Sprint is required to disclose to the government the following information pertaining to the Target Cell Phones listed in Attachment A for the time period February 3, 2019 to the present:

a. The following information about the customers or subscribers of the Target Cell Phones:

- i. Names (including subscriber names, user names, and screen names);
- ii. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
- iii. Local and long distance telephone connection records;
- iv. Records of session times and durations, and the temporarily assigned network addresses (such as Internet Protocol (“IP”) addresses) associated with those sessions;
- v. Length of service (including start date) and types of service utilized;
- vi. Telephone or instrument numbers (including MAC addresses, Electronic Serial Numbers (“ESN”), Mobile Electronic Identity Numbers (“MEIN”), Mobile Equipment Identifier (“MEID”); Mobile Identification Number (“MIN”), Subscriber Identity Modules (“SIM”), Mobile Subscriber Integrated Services Digital Network Number (“MSISDN”); International Mobile Subscriber Identity Identifiers (“IMSI”), or International Mobile Equipment Identities (“IMEI”);
- vii. Other subscriber numbers or identities (including the registration Internet Protocol (“IP”) address); and
- viii. Means and source of payment for such service (including any credit card or bank account number) and billing records.

b. All records and other information (not including the contents of communications) relating to wire and electronic communications sent or received by the Target Cell Phones, including:

- i. the date and time of the communication, the method of the communication, and the source and destination of the communication (such as the source and destination telephone numbers (call detail records), email addresses, and IP addresses); and
- ii. information regarding the cell tower and antenna face (also known as “sectors”) through which the communications were sent and received.

This warrant does not authorize the seizure of any tangible property. In approving this warrant, the Court finds reasonable necessity for the seizure of the Location Information. See 18 U.S.C. § 3103a(b)(2).

II. Information to Be Seized by the Government

All information described above in Section I that will assist in arresting VALENTE PALACIOS TELLEZ, also known as “Valentine Palacios,” who was charged with violating 8 U.S.C. § 1326(a) and (b)(1) on March 19, 2019, and who is the subject of an arrest warrant issued on March 19, 2019, and is a “person to be arrested” within the meaning of Federal Rule of Criminal Procedure 41(c)(4).

Law enforcement personnel (who may include, in addition to law enforcement officers and agents, attorneys for the government, attorney support staff, agency personnel assisting the government in this investigation, and outside technical experts under government control) are authorized to review the records produced by Sprint in order to locate the things particularly described in this Warrant.